

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
19925 TWENTY-THREE MILE ROAD
MACOMB, MICHIGAN 48042

PRESENT: JOHN D. BRENNAN, SUPERVISOR
NORMAN J. SNAY, CLERK
MARIE E. MALBURG, TREASURER
TRUSTEES: DINO F. BUCCI, JR.
JANET DUNN
KENNETH MEERSCHAERT, JR.
CHARLES OLIVER

Also in attendance: Lawrence Dloski, Township Attorney
Jim VanTiflen, Township Engineer
(Additional attendance record on file with Clerk)

ABSENT: None

CALL MEETING TO ORDER

Supervisor BRENNAN called the meeting to order at 7:00 P.M.

1. ROLL CALL.

Clerk SNAY called roll. All present.

2. PLEDGE OF ALLEGIANCE.

3. APPROVAL OF AGENDA ITEMS (with any addendum's)

- Additions:
- 19a. Release of Monuments and Irons Bond; Evergreen Estates Subdivision; located on the north side of 23 Mile Road and approximately 4,000 feet east of Romeo Plank Road, Section 16.
 - 28b. Family Medical Leave Act - Statement of Township Policy
 - 29a. Appointment of alternates for Emergency Management
 - 29b. Request to authorize the attorney to write a liquor license application procedure ordinance and review the application.

MOTION by DUNN seconded by MALBURG to approve agenda as amended.

MOTION carried.

4. APPROVAL OF BILLS.

MOTION by DUNN seconded by OLIVER to authorize payment of all bills as submitted.

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

MOTION carried.

5. APPROVAL OF MEETING MINUTES.

MOTION by OLIVER seconded by MALBURG to approve the minutes of November 28, 2001 as presented.

MOTION carried.

6. Public Comments (Non Agenda items only - 3 minute time limit)

None

PLANNING COMMISSION:

7. Technical Change; The Rivers Subdivision (Landscape Plan); Located north of 25 Mile Road and west of Romeo Plank Road; Section 6; Salvatore DiMercurio, Petitioner. Permanent Parcel No. 08-06-426-013, and 08-06-426-014 and 08-06-451-001.

Mr. Bernard Lynden, Planning Consultant, gave a brief description of the technical change to the proposed subdivision and stated the recommendation of the Planning Commission to approve the request contingent upon the fulfilling of the standard conditions.

Public Portion: None

MOTION by SNAY seconded by MEERSCHAERT to approve the Technical Change; The Rivers Subdivision (Landscape Plan); Located north of 25 Mile Road and west of Romeo Plank Road; Section 6; Salvatore DiMercurio, Petitioner. Permanent Parcel No. 08-06-426-013, and 08-06-426-014 and 08-06-451-001.

MOTION carried.

NEW BUSINESS:

8. Request to Schedule Public Hearing for SAD Street Lighting; Fairways of Macomb Subdivision.

Clerk SNAY recommended setting the public hearing for January 9, 2002.

MOTION by DUNN seconded by MEERSCHAERT to schedule Public Hearing for SAD Street Lighting; Fairways of Macomb Subdivision for January 9, 2002.

MOTION carried.

9. Membership Dues; Clinton River Watershed Council.

MOTION by OLIVER seconded by DUNN to pay the 2002 annual dues to the Clinton River Watershed Council in the amount of five thousand dollars (\$5,000.00)

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

MOTION carried.

10. Temporary Certificate of Occupancy; 7-Eleven Gas and Convenience Center; Located on the south west corner of 22 Mile Road and Romeo Plank/48989 Romeo Plank Road; Diversified Construction Management, Petitioner.

Petitioner Present: Frank Rubino
Public Portion: None

MOTION by OLIVER seconded by MALBURG to approve the Temporary Certificate of Occupancy for the 7-Eleven Gas and Convenience Center located at 48989 Romeo Plank Road contingent upon completing all Planning Commission conditions by June 1, 2002, and to expire on June 1, 2002.

MOTION carried.

11. Temporary Certificate of Occupancy; Macomb Industrial Park Lots 5 & 6; Hicks Plastics; Located west of Industrial Drive and approx. 894 feet north of 23 Mile Road. Hicks Plastics, Petitioner.

MOTION by SNAY seconded by MALBURG to approve Temporary Certificate of Occupancy for the Macomb Industrial Park Lots 5 & 6 for Hicks Plastics contingent upon the petitioner providing an approved Torque Inspection Certificate to the Building Official, as requested, and expiring on June 1, 2002.

MOTION carried.

12. Request for Variance from the Land Division Ordinance (regarding street length); Section 17-138c; Hidden Meadows Condominiums.

Petitioner Present: None

Public Portion: None

MOTION by DUNN seconded by OLIVER to grant the request for a variance from the Land Division Ordinance regarding the street length exceeding 1300 feet in the Hidden Meadows Condominiums.

MOTION carried.

13. Request for Variance from the Land Division Ordinance regarding landscape installation and, for Subdivision Model Permits; Lots 6, 7, 8 and 169; Winding Creek Subdivision. Pulte Land Development, Petitioner.

Petitioner Present: Mark Aripas

Public Portion: None

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

MOTION by DUNN seconded by MALBURG to grant the request for variance from the Land Division Ordinance and extend the deadline for installation of the landscape materials to June 1, 2002 in the Winding Creek Subdivision.

MOTION carried.

MOTION by DUNN seconded by MEERSCHAERT to approve the request for subdivision model permits on lots 6, 7, 8 and 169 in the Winding Creek Subdivision.

MOTION carried.

14. Request to Extend Variance from the Land Division Ordinance (regarding landscape) and authorize change in lot numbers for Subdivision Model Permits; English Gardens Estates; Northern Macomb Development, Petitioner.

Supervisor BRENNAN stated that because the petitioner already has final plat approval, the request to change the lot numbers for the models is not necessary and will not be acted upon by the board.

Petitioner Present: Joe Locrichio
Public Portion: None

MOTION by SNAY seconded by MALBURG to approve request for a variance from the Land Division Ordinance and grant an extension of the landscape installation in English Gardens Estates subdivision to be completed by June 1, 2002.

MOTION carried.

15. Request for Variance from the Land Division Ordinance (regarding landscaping); and Subdivision Model Permits; Lots 3, 9, 39 and 40; Chelsea Park Subdivision. Landtec Development, LLC., Petitioner.

Petitioner Present: Dominic Geric
Public Portion: None

MOTION by DUNN seconded by OLIVER to grant the request for variance from the Land Division Ordinance and grant an extension of the landscape installation in the Chelsea Park subdivision to be completed by June 1, 2002.

MOTION carried.

MOTION by DUNN seconded by MEERSCHAERT to grant the request for the Subdivision Model Permits for Lots 3, 9, 39 and 40 in the Chelsea Park Subdivision.

MOTION carried.

16. Request for Subdivision Model Permits; Unit 1, Averhill Parc Condominiums; Averhill Development LLC, Petitioner.

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

Petitioner Present: William Scalabrino
Public Portion: None

MOTION by SNAY seconded by MALBURG to approve the request for Subdivision Model Permits for Unit 1 in the Averhill Parc Condominiums.

MOTION carried.

17. Request for Subdivision Model Permits; Koss Farms Subdivision; Lots 3, 5, 71 and 75. Classic Development, Petitioner.

Petitioner Present: Richard Rizzo
Public Portion: None

MOTION by DUNN seconded by OLIVER to grant the request for variance from the Land Division Ordinance and grant an extension for the landscape installation in the Koss Farms subdivision to be completed by June 1, 2002.

MOTION carried.

MOTION by DUNN seconded by MALBURG to grant the request for Subdivision Model Permits in the Koss Farms Subdivision on lots 3, 5, 71 and 75.

MOTION carried.

18. Request for the Release of Monuments & Irons Bond; Westchester Farms Subdivision Phases 1 & 2., GTR Builders, Inc., Petitioner.

Public Portion: None

MOTION by OLIVER seconded by MALBURG to grant the Request for the Release of Monuments & Irons Bond for the Westchester Farms Subdivision Phases 1 & 2.

MOTION carried.

19. Request for the Release of Monuments & Irons Bond; Windemere Woods Subdivision No.5, GTR Builder, Inc., Petitioner.

Public Portion: None

MOTION by MALBURG seconded by DUNN to grant the request for the release of Monuments & Irons Bond for the Windemere Woods Subdivision No.5.

MOTION carried.

- 19a. Request for the Release of Monuments & Irons Bond for the Evergreen Estates Subdivision.

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

Public Portion: None

MOTION by DUNN seconded by MALBURG to grant the request for the release of Monuments & Irons Bond for the Evergreen Estates Subdivision.

MOTION carried.

FIRE DEPARTMENT:

20. Request permission to attend the Macomb Community College Executive Management Program.

Chief Ray Ahonen described the management program to the Board and indicated that he would like to provide this same program to all of his full time staff officers.

MOTION by OLIVER seconded by DUNN to grant permission for Chief Ahonen to attend the Macomb Community College Executive Management Program.

MOTION carried.

PARKS AND RECREATION DEPARTMENT:

21. Request for Jerry Krawchuk to attend the Illinois Recreation & Park Association Conference.

D. Martin Piepenbrok, Parks and Recreation Director, explained the request to the Board.

MOTION by OLIVER seconded by DUNN to grant the request for Jerry Krawchuk to attend the Illinois Recreation & Park Association Conference from January 24 through January 26, 2002.

MOTION carried.

22. Request for Tracy Shanley to attend the Michigan Recreation & Park Association Conference.

D. Martin Piepenbrok, Parks and Recreation Director, explained the request to the Board.

MOTION by MEERSCHAERT seconded by MALBURG to grant the request for Tracy Shanley to attend the Michigan Recreation & Park Association Conference from February 7 through February 13, 2002.

MOTION carried.

23. Request for D. Martin Piepenbrok to attend and present at the Michigan Recreation & Park Association Conference.

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

D. Martin Piepenbrok, Parks and Recreation Director, explained the request to the Board.

MOTION by DUNN seconded by OLIVER to grant the request for D. Martin Piepenbrok to attend and present at the Michigan Recreation & Park Association Conference from February 9 through February 13, 2002.

MOTION carried.

WATER/SEWER DEPARTMENT:

24. Easement Encroachment Agreement, Linda M. Nixon, 56776 St. Andrews Drive, Macomb, MI 48042, Lot 70, Country Club Village of the North.

MOTION by MEERSCHAERT seconded by OLIVER to approve the Easement Encroachment Agreement with Linda M. Nixon, 56776 St. Andrews Drive, Macomb, MI 48042, Lot 70, Country Club Village of the North.

MOTION carried.

25. Easement Encroachment Agreement, Eugen and Paula Roman, 47822 Beacon Square Drive, Macomb, MI 48044, Lot 225, Beacon Square Subdivision No.2.

MOTION by MEERSCHAERT seconded by SNAY to approve the Easement Encroachment Agreement with Eugen and Paula Roman, 47822 Beacon Square Drive, Macomb, MI 48044, Lot 225, Beacon Square Subdivision No.2.

MOTION carried.

26. Resolution for MDOT (Michigan Department of Transportation) Annual Permit.

MOTION by OLIVER seconded by MEERSCHAERT to adopt the Resolution for the Michigan Department of Transportation Annual Permit as follows:

RESOLVED WHEREAS, the Macomb Township Board of Trustees, hereinafter referred to as the "GOVERNMENTAL BODY", periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT", for permits, referred to as "PERMIT", to construct, operate use and/or maintain utility or other facilities, or to conduct other activities, on, over, or under state trunk line right of way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT the GOVERNMENTAL BODY agrees that:

- 1. It will fulfill all permit requirements and will indemnify, save harmless, represent and defend the State of Michigan, Michigan Transportation Commission, and the DEPARTMENT and all**

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

officers, agents, employees and those contracting governmental bodies performing permit activities for the DEPARTMENT according to a maintenance contract:

a. from any an all claims and losses occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies to the GOVERNMENTAL BODY's facilities and/or its installation, construction, operation, or maintenance activities which are being performed under the terms of the PERMIT on, over, and/or under the state trunk line right of ways; and

b. from any and all claims of every kind for injuries to, or death of, any and all persons, and for loss of or damage to property, and environmental damage or degradation, and from attorney's fees and related costs arising out of, under, or by reason of the presence of the GOVERNMENTAL BODY's facilities and/or its installation, construction, operation, or maintenance activities which are being performed under the terms of the PERMIT on, over, and/or under the state trunk line right of way, except claims resulting from the sole negligence or willful acts or omissions of said DEPARTMENT performing permit activities; and

c. from any and all claims made by any and all persons, firms, or corporations furnishing or supplying materials, supplies, work, or services on, over, and/or under the State trunk line right of way pursuant to an agreement with the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission, as a result of the GOVERNMENTAL BODY's failure to move or otherwise relocate its facilities in a timely manner after being requested to do so by the DEPARTMENT.

2. Any work performed for the GOVERNMENTAL BODY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL BODY and not as a contractor or agent of the DEPARTMENT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL BODY. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL BODY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT.

MOTION carried. Resolution declared adopted.

27. Approval of Purchase Requisitions:
- a. Kennedy Industries Inc.
 - b. Jim Muir
 - c. Board of County Road Commission
 - d. Kennedy Industries Inc.

MOTION by SNAY seconded by MALBURG to approve the Purchase Requisition from Kennedy Industries Inc. in the amount of one thousand nine hundred and forty dollars (\$1,940.00).

MOTION carried.

MOTION by DUNN seconded by SNAY to approve the Purchase Requisition from Jim Muir in the amount of two thousand one hundred and sixty dollars (\$2,160.00)

MOTION carried.

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

MOTION by OLIVER seconded by MALBURG to approve the running purchase requisition from the Macomb County Road Commission for salt for the 2001-2002 winter season in the amount of twenty four dollars and 2/100 (\$24.02) per ton with an eighteen percent (18%) handling fee.

MOTION carried.

MOTION by SNAY seconded by OLIVER to approve the Purchase Requisition from Kennedy Industries Inc. in the amount of one thousand eight hundred and seventy five dollars (\$1,875.00)

MOTION carried.

BOARD COMMENTS:

28. Supervisor's Comments

a. Networking of Township Facilities

Trustee MEERSCHAERT explained the technicalities of the proposed wide area network for all of the townships building facilities. The infrastructure cost will be a one-time charge and may provide a source of revenue in the future. The total cost for this project is approximately one hundred sixty four thousand three hundred and four dollars (\$164,304.00) as presented. This cost estimate may decrease significantly as the vendor is also providing similar services into the new township hall.

Attorney Lawrence Dloski reviewed the proposed vendor contract and made comments on the following three paragraphs in that contract:

Paragraph 7 - The contract was to be reviewed under the laws of the State of South Dakota

Paragraph 8 - All disputes were to be settled by binding arbitration

Paragraph 10 - Requires to pay for the Gateway attorney regardless of who prevails in any litigation.

Mr. Dloski indicated that he would not recommend that the Board enter into a contract containing these provisions.

MOTION by OLIVER seconded by DUNN to authorize the Supervisor and the Attorney to negotiate this contract and to approve the contract if the changes are made and are satisfactory to the Supervisor and the Attorney.

MOTION carried.

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

b. Family Medical Leave Act - Statement of Township Policy

Supervisor BRENNAN stated that at the November 28, 2001 meeting of the Board of Trustees, the issue of the Board's policy relating to maternity leave under the Family Medical Leave Act was questioned. He stated that after consultation with legal counsel, the following is recommended to be adopted as the Maternity Leave Policy under the Family Medical Leave Act for Macomb Township:

1. Any employee granted a maternity leave under the Family Medical Leave Act must first use all vacation and personal time in their benefit time bank.
2. After the vacation and personal time is used up, the employee granted the maternity leave under the Family Medical Leave Act may then use accumulated sick time provided that a minimum of forty (40) hours of sick time remains unused in their benefit time bank.

MOTION by OLIVER seconded by DUNN to approve the following policy as presented:

- 1. Any employee granted a maternity leave under the Family Medical Leave Act must first use all vacation and personal time in their benefit time bank.**
- 2. After the vacation and personal time is used up, the employee granted the maternity leave under the Family Medical Leave Act may then use accumulated sick time provided that a minimum of forty (40) hours of sick time remains unused in their benefit time bank.**

MOTION carried.

29. Clerk's Comments

29a. Request to appoint two alternates to the Township Emergency Management Team.

Clerk SNAY stated that there is a legal requirement to have alternates on the Township Emergency Management Team. Clerk SNAY recommended that Fire Department Lieutenant Thomas Habel and James LaBuhn be appointed as alternates to the Township Emergency Management Team.

MOTION by DUNN seconded by MALBURG to appoint Fire Department Lieutenant Thomas Habel and James LaBuhn as alternates to the Township Emergency Management Team.

MOTION carried.

29b. Request authorization to allow the attorney to draft a liquor license ordinance and to review the current liquor license application.

Clerk SNAY stated that because of the nineteen new liquor licenses granted to the township, he felt that the Board should authorize the attorney to draft a liquor license ordinance and to review the current liquor license application.

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

MOTION by SNAY seconded by OLIVER to authorize the attorney to draft a liquor license ordinance and to review the current liquor license application.

MOTION carried.

MOTION by SNAY seconded by MEERSCHAERT to declare a moratorium on accepting application for liquor licenses for six months to allow for the review of the applicable laws and the application.

MOTION carried.

30. Treasurer's Comments

None

31. Trustee's Comments

None

MOTION by DUNN seconded by MEERSCHAERT to adjourn to executive session.

MOTION carried.

The Board adjourned to executive session at 8:05 p.m.

The Board returned from executive session at 8:33 p.m.

EXECUTIVE SESSION:

32. Moritz & Pippen vs. Macomb Township

MOTION by DUNN seconded by OLIVER to reject the settlement offered in the Moritz & Pippen vs. Macomb Township litigation.

MOTION carried.

33. Grand Sakwa v Macomb Township

Informational only.

ADJOURMENT

MOTION by DUNN seconded by MEERSCHAERT to adjourn.

MOTION carried.

The meeting adjourned at 8:35 p.m.

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, DECEMBER 12, 2001
AT 7:00 P.M.

John Brennan
Macomb Township Supervisor

Norman J. Snay
Macomb Township Clerk

Minutes prepared by:
Michael D. Koehs
Deputy Township Clerk